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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 *In re* Ex Parte Application of

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12 APPLE INC.; APPLE GMBH; APPLE  
13 RETAIL GERMANY GMBH; APPLE,  
14 JAPAN INC.; APPLE SALES  
15 INTERNATIONAL; APPLE HOLDING  
16 B.V.; APPLE BENELUX B.V.; APPLE  
17 NETHERLANDS B.V.; APPLE RETAIL  
18 NETHERLANDS B.V.; APPLE KOREA  
19 LTD.; APPLE FRANCE; APPLE RETAIL  
20 FRANCE; APPLE ITALIA S.R.L.; APPLE  
21 RETAIL UK LIMITED; and APPLE PTY  
22 LIMITED.

23 Applicants,

Case No. 11mc1268

**ORDER GRANTING APPLE’S EX  
PARTE APPLICATION FOR AN ORDER  
PURSUANT TO 28 U.S.C. § 1782  
GRANTING LEAVE TO OBTAIN  
DISCOVERY FOR USE IN FOREIGN  
PROCEEDINGS**

24 This matter comes before the Court on the Ex Parte Application of Apple Inc.; Apple  
25 GmbH; Apple Retail Germany GmbH; Apple, Japan, Inc.; Apple Sales International; Apple  
26 Holding B.V.; Apple Benelux B.V.; Apple Netherlands B.V.; Apple Retail Netherlands B.V.;  
27 Apple Korea Ltd.; Apple France; Apple Retail France; Apple Italia s.r.l.; Apple Retail UK  
28 Limited; and Apple Pty Limited (“Apple”) for an Order to Obtain Discovery for Use in Foreign  
Proceedings pursuant to 28 U.S.C. § 1782(a) (the “Application”). The Application seeks

1 documents from Qualcomm Inc. (“Qualcomm”) in connection with patent litigation pending  
2 between Apple and Samsung Electronics Co., Ltd. and its affiliates in Germany, Japan, the  
3 Netherlands, South Korea, France, Italy, the United Kingdom, and Australia. Samsung has filed  
4 an opposition, and Apple has filed a reply.  
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6 The Court has fully considered the papers on file. Apple’s application satisfies the three  
7 statutory requirements under §1782. The application is filed in the “district in which [the] person  
8 resides,” it seeks discovery “for use in a proceeding in a foreign ... tribunal,” and Apple is an  
9 “interested person[] the foreign proceeding. Furthermore, Apple has satisfied the four factors  
10 identified by the Supreme Court to guide courts’ discretion in analyzing applications under  
11 §1782. Intel Corp. v. Advanced Micro Devices, Inc., 542 U.S. 241, 256 (2004). Qualcomm is  
12 not a participant in the foreign proceedings, and §1782 provides an effective and streamlined  
13 mechanism for obtaining the discovery for use across the various foreign cases. Case law  
14 demonstrates the foreign jurisdictions at issue are receptive to the type of discovery sought by  
15 Apple, and there is nothing to indicate the request is made to circumvent limitations on discovery  
16 imposed by those foreign courts. Finally, the subpoena appears narrowly tailored such that the  
17 documents sought would be relevant to the claims against Apple in the foreign courts and  
18 compliance would not be unduly intrusive or burdensome.  
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21 Samsung objects to the application, arguing the subpoena is unnecessary because Apple  
22 can obtain the documents directly from Samsung in discovery in the foreign proceedings.  
23 However, the Court has no assurance the evidence would be available in each of the foreign  
24 venues in which Samsung is pursuing litigation. In addition, Apple’s application sufficiently  
25 outlines the relevance of the evidence sought. There is nothing at this point that leads the Court  
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1 to believe Apple's request is a "fishing expedition" or intended to be a vehicle for harassment.

2 Therefore, the Court GRANTS Apple's application.

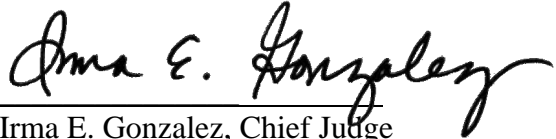
3 **IT IS HEREBY ORDERED** that Apple is granted leave to issue a subpoena for  
4 documents in substantially the form as attached to the Application, directing Qualcomm to  
5 produce the documents requested in the subpoena at the offices of Merrill Corporation, 8899  
6 University Center Lane, Suite 200, San Diego, CA 92122, or another location mutually agreeable  
7 to Apple and Qualcomm.  
8

9 It is further **ORDERED** that copies of the Application and Memorandum in Support  
10 thereof and this Order shall be served upon Qualcomm Inc., 5775 Morehouse Drive, San Diego,  
11 CA 92121.  
12

13 This order is made without prejudice to any motion to quash by Qualcomm, or any  
14 further motion for protective order by Samsung. Any motion seeking such relief shall be filed  
15 under this case number.

16 **IT IS SO ORDERED.**

17 Dated: October 13, 2011

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Irma E. Gonzalez, Chief Judge  
United States District Court  
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